

Gloria L. Franklin  
Clerk of Court

San Francisco Bankruptcy Court  
235 Pine St.  
P.O. Box 7341  
San Francisco, CA 94120-7341

(415) 268-2300

Richard W. Wiking, Clerk  
United States District Court  
450 Golden Gate Avenue  
San Francisco, CA 94102-3489

Re: *Richard L. Hatfield*  
*07-30031 (Involuntary Case)*  
Bankruptcy Judge: Thomas E. Carlson

*Cr 5373 CW*

RECEIVED

OCT 30 2007

*M*

RICHARD W. WICKING  
CLERK, UNITED STATES COURT  
NORTHERN DISTRICT OF CALIFORNIA

Dear Mr. Wiking:

[X] Enclosed please find a copy of the **Appellant's Designation of Record and Statement of Issues on Appeal Filed on October 25, 2007**. The Appellant's designated items are not included with the designation.

[ ] Enclosed please find the record of designated items and a certificate of record for an appeal that has been previously sent to the district court.

[ ] Enclosed please find the copies of pleadings in amended designation of record for an appeal that has been previously sent to the district court.

Please acknowledge receipt of the enclosed documents with the District Court case number on the copy of this letter and return it to *U.S. Bankruptcy Court, San Francisco Division*.

Gloria L. Franklin, Clerk  
United States Bankruptcy Court

Dated: October 29, 2007

By: *Michelle Walker*  
Deputy Clerk

1 James H. Seymour SBC No. 48651  
2 706 Cowper Street  
3 Palo Alto, California 94301  
4 Telephone: (650) 323-7226  
5 Counsel for Appellants  
6 Jennifer M. Moore, Carey & Carey,  
7 and Ricardo C. Saria

**FILED**

OCT 30 2007

RICHARD W. WIEKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND JF

8 UNITED STATES BANKRUPTCY COURT  
9 NORTHERN DISTRICT OF CALIFORNIA

10 In re

11 ALLIANCE FINANCIAL  
12 CAPITAL HOLDINGS, INC.

13 Alleged Debtor.

14 } No. 07-30030 TEC 7

15 RICHARD L. HATFIELD,

16 } No. 07-30031 TEC 7

17 Alleged Debtor.

18 }

19 }

20 DESIGNATION OF RECORD ON APPEAL

21 FROM AWARD OF ATTORNEYS' FEES

22 IN CASE NO. 07-30031

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1           Appellants Jennifer M. Moore, Carey & Carey, and Ricardo C. Saria designate the  
 2 record on their appeal from the award of attorneys' fees in this action as follows:

| 3  | No. | Docket No. | Document Title   | Date      |
|----|-----|------------|--|-----------|
| 4  | 1   | 1          | Chapter 7 Involuntary Petition                         | 9 Jan 07  |
| 5  | 2   | 3          | Order Transferring Case (to Judge Carlson)             | 11 Jan 07 |
| 6  | 3   | 11         | Notice of Removal - Adversary No. 07-03011             | 29 Jan 07 |
| 7  | 4   | 14         | Answer to Complaint (Involuntary Petition)             | 1 Feb 07  |
| 8  | 5   | 15         | Order Suspending Involuntary Bankruptcy Proceedings    | 2 Feb 07  |
| 9  | 6   | 18         | Order Setting Continued Status Conference              | 12 Feb 07 |
| 10 | 7   | 20         | Status Conference Statement                            | 22 Feb 07 |
| 11 | 8   | 21         | Order Continuing Suspension, <i>etc.</i>               | 27 Feb 07 |
| 12 | 9   | 23         | Order Correcting Time and Date of Status Conference    | 2 Mar 07  |
| 13 | 10  | 25         | Status Conference Statement                            | 8 Mar 07  |
| 14 | 11  | 26         | Amended Order Continuing Suspension, <i>etc.</i>       | 13 Mar 07 |
| 15 | 12  | 29         | Order Continuing Status Conference                     | 9 May 07  |
| 16 | 13  | 31         | Motion to Dismiss                                      | 25 May 07 |
| 17 | 14  | 32         | Notice of Hearing (Motion to Dismiss)                  | 25 May 07 |
| 18 | 15  | 33         | Motion to Terminate Suspension and Dec. of Seymour     | 26 May 07 |
| 19 | 16  | 34         | Notice of Hearing (Motion to Terminate Suspension)     | 26 May 07 |
| 20 | 17  | 35         | Brief in Opposition to Motion to Terminate Suspension  | 8 Jun 07  |
| 21 | 18  | 36         | Declaration of Berke-Dreyfuss in Support of Opposition | 8 Jun 07  |
| 22 | 19  | 37         | Objection to Declaration of Seymour                    | 8 Jun 07  |
| 23 | 20  | 38         | Errata Re Brief in Opposition                          | 14 Jun 07 |
| 24 | 21  | 39         | Joinder by Moore in Involuntary Petition               | 15 Jun 07 |
| 25 | 22  | 40         | Joinder by Carey & Carey in Involuntary Petition       | 15 Jun 07 |
| 26 | 23  | 41         | Joinder by Saria in Involuntary Petition               | 15 Jun 07 |
| 27 | 24  | 42         | Brief in Opposition to Motion to Dismiss               | 15 Jun 07 |
| 28 | 25  | 43         | Declaration of Seymour in Opp. to Motion to Dismiss    | 15 Jun 07 |

|    | <b>Docket No.</b>   | <b>Document Title</b>                                 | <b>Date</b> |
|----|---|---|-------------|
| 2  | 26 44   | Opposition to Declaration of Seymour                  | 19 Jun 07   |
| 3  | 27 46   | Order Granting Motion to Dismiss                      | 26 Jun 07   |
| 4  | 28 48   | Notice of Appeal                                      | 4 Jul 07    |
| 5  | 29 49   | Election to Appeal to District Court                  | 4 Jul 07    |
| 6  | 30 52   | Motion to Pay Attorneys Fees                          | 10 Jul 07   |
| 7  | 31 53   | Notice of Hearing                                     | 10 Jul 07   |
| 8  | 32 59   | Agreed Notice of Continued Hearing                    | 10 Aug 07   |
| 9  | 33 63   | Memo in Opposition to Motion to Pay Attorneys Fees    | 14 Sept 07  |
| 10 | 34 64   | Declaration in Opposition to Motion to Pay Fees       | 14 Sep 07   |
| 11 | 35 65   | Joinder of Carey & Carey in Opposition to Fees Motion | 17 Sept 07  |
| 12 | 36 66   | Joinder of Ricardo Saria in Opposition to Fees Motion | 20 Sept 07  |
| 13 | 37 67   | Reply to Opposition to Motion for Attorneys Fees      | 21 Sept 07  |
| 14 | 38 68   | Objection to Declaration in Opposition to Fees Motion | 21 Sept 07  |
| 15 | 39 69   | Order Awarding Attorneys Fees                         | 3 Oct 07    |
| 16 | 40 72   | Notice of Appeal                                      | 14 Oct 07   |
| 17 | 41 73   | Notice of Election to Appeal to District Court        | 14 Oct 07   |
| 18 | Also to be included in the record on appeal are (1) a copy of the docket for this case, (2) the transcript of the hearing held on 22 June 2007, and (3) the transcript of the hearing on 28 September 2007. |   |             |
| 19 |   |   |             |
| 20 |   |   |             |

#### **STATEMENT OF ISSUES ON APPEAL**

The transcript of the 28 September 2007 hearing which resulted in the order of dismissal has not yet been prepared. Because the findings of the Court on which it based its order of dismissal were stated on the record on 28 September and the Court did not make any written findings, appellant prays leave to amend this statement of issues, and reserves the right to do so, after the transcript has been received by her counsel.

Notwithstanding the foregoing, appellant cites the following issues for appeal:

1. The continued pendency of the appeal of the order dismissing the involuntary  
2 bankruptcy petition against Richard Hatfield (Hatfield).
3. The contingency and the failure of performance of the “settlement” on which the  
4 dismissal against Hatfield was based.
5. The denial by Hatfield of any obligation by him under the terms of the “settlement”  
6 on which the dismissal against Hatfield was based.
7. The failure of the Court to make any findings with respect to the criteria  
8 established by the Ninth Circuit for determining the propriety of awarding attorneys fees  
9 when an involuntary petition is dismissed.
0. The failure of Hatfield to demonstrate any facts supporting an award of attorneys  
1 fees under the criteria established by the Ninth Circuit for determining the propriety of  
2 awarding attorneys fees when an involuntary petition is dismissed.
3. The amount of fees awarded exceeds Hatfield’s evidence of fees incurred after the  
4 appellants filed their joinders in the pending involuntary petition.
5. The petitioner’s joinder had no effect on and was not a cause of any attorney fees  
6 incurred by Hatfield.

JAMES H. SEYMOUR

Dated: 24 October 2007

/s/ James H. Seymour  
James H. Seymour  
Counsel for Appellants  
Jennifer M. Moore  
Carey & Carey  
and Ricardo C. Saria